

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

OSCAR GARNER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 4:21-CV-00004 JAR
	)	
DR. VALERIE WALKER, et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

Plaintiff Oscar Garner brings this action pursuant to 42 U.S.C. § 1983 alleging violations of his civil rights during his incarceration at the St. Charles County Department of Correction. Plaintiff's complaint alleges that the Jail would not provide him with a lactose-free diet. Among the named defendants is Daniel Keen, the St. Charles County Jail Administrator. On June 27, 2022, Plaintiff filed a Motion for Partial Summary Judgment against Defendant Daniel Keen. (Doc. No. 51). On July 18, 2022, Defendant Keen filed a Memorandum in Opposition to Plaintiff's motion as well as a response to Plaintiff's statement of material facts. (Doc. Nos. 57, 58).

On August 5, 2022, Plaintiff filed a "Motion to Grant Summary Judgment Against Daniel Keen for Abandoning Case by Not Responding" on the grounds that Keen had failed to respond to Plaintiff's initial motion for partial summary judgment and corresponding statement of facts. (Doc. No. 64). The record clearly shows that Keen timely responded to Plaintiff's initial motion.<sup>1</sup> Moreover, in his response to Plaintiff's latest motion, Keen states that he served copies of his filings on Plaintiff by regular U.S. mail at the address Plaintiff has filed with this Court and

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<sup>1</sup> Pursuant to this Court's local rules, a party opposing a motion for summary judgment under Rule 56 must file a memorandum and any appropriate documentary evidence twenty-one (21) days after being served with the motion. See E.D. Mo. L.R. 4.01(F).

displayed on the CM/ECF system and that to date, those copies have not been returned to the Office of the St. Charles County Counselor. (Doc. No. 66).

Accordingly,

**IT IS HEREBY ORDERED** that Plaintiff's Motion to Grant Summary Judgment Against Daniel Keen for Abandoning Case by Not Responding [64] is **DENIED**.

Dated this 31st day of August, 2022.

  
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JOHN A. ROSS  
UNITED STATES DISTRICT JUDGE